

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

Present:

Council Members: Mayor, Bruce Densley via speaker phone as noted  
Bill Adams  
Danyale Blackmore  
Jean Krause  
Jay Lee

Others: Monica Bowcutt, Town Clerk  
Sean Amodt  
Linda Collet  
John Ely  
Lee Ballard  
Cason Smith (Munn Property)  
Wanda Leverett  
Monte Lutz  
Cindy Escude  
Sandy McClurg  
Carson & Shelly Ferrin (BMX)

**A. WORK MEETING/Non-Action Items:**

The Work Meeting began at 6:32 pm.

**1. Update on Kolob Road Realignment and CFP-Jason Smith.**

Mayor Pro Tem, Jean Krause, excused Jason Smith, because he would not be attending the meeting. She also stated that Interstate Rock had removed a few trees where the new Kolob Road was going to go, but she had not seen any other work being done. Monica Bowcutt, Town Clerk, stated that she had spoken to Jason Smith, who told her that Interstate Rock had mobilized their equipment and had put in silt pits, getting ready to begin the work. He also told her that he would continue to put pressure on Interstate Rock. Town Clerk, Monica Bowcutt, also reported that during the conversation Jason Smith stated that he had asked for comments from the Council (in February) about the Capital Facilities Plan, which he had not received. Mayor Pro Tem, Jean Krause, stated that the Council was aware of the oversight and would get those comments to Jason Smith as soon as possible.

**2. Discussion of Jack Ruggles Business License requirements.**

Mayor Pro Tem, Jean Krause, reported that the issue with Jack Ruggles business license dealt with Mr. Ruggles 1)not showing proof of insurance and 2)not following the terms on his Conditional Use

## FINAL MINUTES

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**WEDNESDAY, May 28, 2014**

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**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

Permit. She also reported that Mr. Ruggles had told the Town that there was a law that said he did not have to comply with his Conditional Use Permit, but had not given the name or reference of the law. Council Member Jay Lee volunteered to speak to Mr. Ruggles about the issue on his own time. Mayor Pro Tem Jean Krause reported that prior to the meeting, Mayor Densley had asked that a letter be sent to Mr. Ruggles asking him to show proof of insurance within ten days, or his business license would not be renewed. Town Clerk, Monica Bowcutt, reported that 2008 was the last time the Town had received proof of insurance from Jack Ruggles. The Council decided to include in the letter an invitation for Mr. Ruggles to attend the June Town Council Meeting to explain his situation.

Monte Lutz suggested that the Town Council review the Utah Equine Liability Act. He stated that this law was existing in most states (and in every state in the West) and that it might be the law Mr. Ruggles was referring to. Mr. Lutz was unclear if the law pertained to the issues being discussed about Mr. Ruggles. Council Member Danyale Blackmore stated that there were other issues that the neighboring Falcon Ridge Ranch was being held to, but Mr. Ruggles had not complied with.

Cindy Escude asked if all businesses must provide proof of insurance each year. Town Clerk, Monica Bowcutt, replied that several businesses have that requirement as part of their Conditional Use Permit. She stated that Jack Ruggles' conditions happen to be porta potties, manure containment, fly abatement, and liability insurance.

### **3. Discussion of BMX funds.**

This item was discussed after item number 4.

### **4. Discussion of Purchasing 25 more water Shares.**

Mayor Pro Tem, Jean Krause, stated that the Town had been approached about buying the other 25 water shares from Sierra Bella. Council Member Danyale Blackmore stated that she felt the Town was already increasing the budget enough by going into debt for the Old Church, and spending money on

## FINAL MINUTES

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**WEDNESDAY, May 28, 2014**

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**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

purchasing a lot of other things. She stated that even though the water was a great deal, and she would like to buy 25 more shares, now was not the time to be spending more money. She felt that the Town should sell the Coal Pits Property first to get the cash to pay for the water, so the Town was not further in debt. Council Member Blackmore stated that water was precious, but she felt the Town should slow down on expending the debt.

Council Member Jay Lee stated that the water was a great price, but the Town had spent all the impact fees buying the previous water shares. Besides that, the Town had \$23,000 due on the water tank repair and there was not that much money in the account. Council Member Lee felt that even though the bank was offering to finance the water, it still had to be paid for.

Council Member Bill Adams stated, that he agreed, but the Town did not have to pay for it this year. All the Town had to do was tie the water shares up. The bank had stated that the Town could pay them \$1 and they would carry the liability over and let the Town pay them when the money was available. This meant that the Town could pay them \$1 this year, and \$1 next year, if needed. Council Member Adams continued that all the Town had to do was encumber the funds for the future. He felt that passing the opportunity to get the 25 water shares now, knowing full well that the Water Conservancy District would eventually be gone and the Town would need these shares, was a mistake. He stated that the Council would be fools not to take them.

Mayor Pro Tem, Jean Krause, stated that the price was \$2,500 a share, when the going rate seemed to be \$4,500.

Lee Ballard stated the impact fees that were collected for water must be spent. This would be a good place to put those fees that must be spent in the future.

Mayor Pro Tem, Jean Krause, stated that the Washington County Water Conservancy District would

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

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**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

probably buy the shares in a heart beat if the Town decided not too, then they would sell them back to the Town for more money.

Council Member Danyale Blackmore stated that she wanted the Town to verify that the bank would carry the Town before an agreement was made. She did not want to put the Town in more debt, which they could not afford. Mayor Pro Tem, Jean Krause, stated that Moncia Bowcutt, Town Clerk, would follow up on all the details before the papers were signed.

#### **Discussion of BMX Funds**

Council Lee Jay introduced Carson and Shelly Ferrin, stating that Carson was the Track President and Shelly was the brains behind the computer work. He then reported that the Track just had a new printer donated. Council Member Lee reported that the Ferrins were behind putting in a Track sand box and planned to put in a slide and swing set. He then reported that the Town was budgeting \$500 for the income of the Track next year. He stated that it was hard to get the funds made from races to the Town Office to be deposited, then the ABA must be paid. Because of the difficulty of the process he suggested the Town should lease the track to the Ferrins for \$500. Then they could take care of all the paperwork and funding details for the races.

Council Member Danyale Blackmore stated that another group last year had wanted to do that. The Town had looked into the possibility and the BLM did not allow the Town to lease the land, according to the contract. She volunteered to help get the race money to the Town Office and help man the books after a race. She replied that the BLM needed a patent/concept plan before the land could be turned over to the Town. She also stated that Jerald Pratt had volunteered to design, draw, and print out the conceptual design of the 80 acres to be given to the BLM.

Sean Amodt stated that once the land was patented, the Town could establish a new RMPB for the rest of the land, but the new 80 acres must start from the beginning of the application process. Mr. Amodt

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

reported that the paper work was ready and the Town was just waiting for the concept plan. He also reported that Mayor Bruce Densley said he would be the one signing for the project, so the Mayor needed to go into the BLM Office.

Cindy Escude asked how long the contract was for. Council Member Danyale Blackmore explained that the 20 years was just an arbitrary number that was placed in the contract. Council Member Jay Lee stated that under the contract the Town said it would do certain things, which have all been done, so the Town would have no problem getting the land, as soon as the paper work was done. The 20 years just meant that if the Town wanted the land, the patent must be done before then. Council Member Jay Lee suggested that it would be good to patent all the eighty acres at once.

Mayor Pro Tem, Jean Krause, asked what the Ferrins currently did at the track. Carson Ferrin answered that they managed the track, explaining that they kept it running by putting on all the races, working out the schedule, making sure all the help was available and trained, worked with USA BMX to find out the legality of issues, making sure the riders followed the guidelines, worked on the restrooms, collected the money, and paid the USA BMX. Council Member Danyale Blackmore stated that the Ferrins were amazing, ran the track with experience, and had many contacts. She was grateful that they had stepped in to run the Track.

Mayor Bruce Densley called on the phone. He was put on speaker phone.

Mayor Pro Tem, Jean Krause, informed Mayor Densley that Cason Smith, from the Munn property, was present to discuss a fence which he was told needed to come before the Council. Mayor Pro Tem Krause asked Mayor Densley if he had contacted Cason Smith or Matt Spendlove about building the fence. The Mayor replied that he had not. Cason Smith addressed Mayor Densley stating that complaints had been made about trespassers who were partying on the South East corner of the property. Mr. Smith expressed concerns about liability issues with the trespassers. He stated that the

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

property owner did not want to block people out of the property, but it had become a nuisance. Cason Smith stated that he had come to the meeting because he was told to be there. Mayor Densley stated that he was not the one who had raised the fence issue on the property, but suggested putting no trespassing signs up. He also stated that if Mr. Munn wanted to put a fence up, he had every right to do so. Council Member Bill Adams suggested Cason Smith check with Kurt Wright, the Police Chief, about the issue.

#### **1. Call to Order-Mayor Bruce Densley**

Mayor Pro Tem, Jean Krause, called the meeting to order at 7:04 pm.

#### **2. Invocation/Pledge of Allegiance**

Council Member Bill Adams led the Pledge of Allegiance. No invocation was given.

#### **3. Declaration of Conflicts of Interest.**

No Conflicts of Interest were declared. Council Member Danyale Blackmore stated that she had had Ex Parte Communication with Council Member Jay Lee concerning the Resolution 14-052814-6 Supporting the Leasing of Residential Housing. Jean Krause stated that she had spoken to Lee Ballard, Bonnie Timmerman, and Cindy Escude about the same resolution, 14-052814-6.

#### **OLD BUSINESS/Action Items:**

#### **4. Review with possible approval of Feb. 26, 2014 draft minutes.**

Mayor Pro Tem Jean Krause stated that in order to save time during the meeting, she had typed her changes to the minutes in a list. Council Member Jay Lee stated that he had also read the minutes and then added his changes to Jean Krause's list. The list would be given to Darcey Spendlove to make the corrections for the Final Minutes.

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

**5. Review with possible approval of April 23, draft minutes.**

*Jean Krause moved to approve the February 26, 2014 and April 23, 2014 Town Council Meeting draft minutes as set forth on the document listing the changes, which would be turned into Darcey Spendlove. Bill Adams seconded the motion. Vote on motion: Bill Adams-Aye, Danyale Blackmore-Abstain, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye, via phone. The motion passed.*

**6. Review with possible approval of May 13, 2014 Special Meeting draft minutes.**

The May 13, 2014 Special Meeting draft minutes were not available. Mayor Pro Tem Jean Krause stated that the May 13, 2014 draft minutes would be tabled until June, 2014.

**7. Review with possible approval of April Invoice and Checks.**

Council Member Jay Lee questioned why the bill from the Town of Springdale, which was dated September 2013 (did you mean 2014??) and October, had just arrived. Town Clerk, Monica Bowcutt, stated that the bill from the Police Department came quarterly, which would have come in January. Council Member Jay Lee stated that he was only asking because he wondered if these new bills would affect the budget, which had already been amended. Mayor Pro Tem Jean Krause stated that she did not think it would affect the budget because it had already been included in the current budget.

*Jean Krause moved to approve the April Invoices and Checks. Bill Adams seconded the motion. Vote on motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye, via phone. The motion passed unanimously.*

**NEW BUSINESS:**

**8. Award bid for Old Church Restoration Project.**

Council Member Jean Krause stated that no bids had been submitted for the project. Council Member

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

Danyale Blackmore stated that the project was estimated at \$250,000. She also stated that contractors were now busy for the summer. She suggested that the Town wait until the Fall, when they were more hungry for work. She stated that citizens were still willing to come and do donation work, if the CIB agreed with that. Town Clerk, Monica Bowcutt, stated that she had called Susan Baxter about the issue. Susan was supposed to be getting back to the Town very soon to let them know what the CIB stance was about the problem.

#### **9. Award bid for Support building Project.**

See discussion under item #8 above.

#### **10. Resolution #14-052814-4 Adopting Proposed budget for 2014/2015.**

Mayor Pro Tem, Jean Krause, stated that the Council had held the budget meeting during April. She stated that the budget was discussed in detail.

Council Member Jay Lee asked why there was not a monthly fee paid to Hinton Burdick for the month of April. The Council decided that the entire month was not included in the checks and invoices which were just approved. Council Member Lee asked where the payments to Hinton Burdick, for Accountant Candus Tibbits, fell into the budget. He thought perhaps they were in the category of professional fees. Mayor Pro Tem Krause stated that she did not know where the payments fell into the budget.

Council Member Jay Lee asked if the Town was over or under budget. Mayor Pro Tem, Jean Krause, stated that the budget was balanced. Council Member Jay Lee stated that on page 2 it showed the General Government salaries and wages expenses up by \$3,900. On page 3, Class C Road expenses were up \$42,066 over last year's salaries and wages. On page 4 Parks and Recreation was up \$1,400 for salaries and wages. The Water Department was up \$7,700. Council Member Lee stated that in total the Town was up \$17,266 up over last year's salaries and wages. He thought that the goal was to get

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

Monica in as a full time employee. Mayor Bruce Densley stated via phone that the increases were for Monica Bowcutt, Chris Holm, and the new part time person and the salary increases were needed. He also stated that the increases were not a big issue right at this point of time. Monica Bowcutt, Town Clerk, stated that the office hours would be increasing in the next couple of weeks.

Council Member Jay Lee stated that on page 7, source 47-39, on impact fees and interest earned that those two number had been inverted. He thought that \$6,964 of interest was quite a latge chunk of money, compared to the \$1700 of impact fees. He felt the numbers should be reversed. Mayor Pro Tem, Jean Krause, agreed. Council Member Bill Adams stated that it was just a typo.

Council Member Jay Lee stated that he saw that Class C Road funds had an income of \$60,000, but the budget showed that the Town was only going to spend \$40,383. Council Member Lee wondered where the other \$19,617 had gone. He stated that the bottom lines balanced, but wondered what shortfall the \$19,000 was being used for. Mayor Pro Tem, Jean Krause, stated she would write the issues down and ask Candus Tibibts, Town Accountant, to address the questions in a memo to the Town Council.

Lee Ballard suggested the Council approve the budget in order to make the deadline, and so a special meeting did not need to be held.

*Jean Krause moved to approve the Resolution #14-052814-4 Adopting the Budget for the Fiscal Year 2014/2015, with Candus Tibbits addressing the two issues raised by Jay Lee about the salaries and the revenue and expense difference on the Class C Road Funds. Bill Adams seconded the motion. Vote on motion: Bill Adams-Aye, Danyale Blackmore-Abstain, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye, via phone. The motion passed.*

**11. Resolution #14-052814-5 Appointing Ashley Averett as Emergency Certified Water Contact.**

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

Mayor Pro Tem, Jean Krause, explained that Ashley Averett, who lived in LaVerkin, had agreed to serve at the Virgin Town Emergency Certified Water Contact, in case Chris Holm, Town Maintenance Supervisor, was unavailable to respond to an emergency.

*Danyale Blackmore moved to approve Resolution 14-052814-5 appointing Ashley Averett as the Emergency Certified Water Contact. Jay Lee seconded the motion. Vote on Motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye via speaker phone. The motion passed unanimously.*

#### **12. Announce the Name New Town Park.**

Town Clerk, Monica Bowcutt, stated that Pocket Park had 5 votes, Wilcox Park had 14 votes, and Pocketville Park had 35 votes. Mayor Pro Tem, Jean Krause, stated that the new Town Park was named Pocketville Park. The Council decided that no resolution was needed.

#### **13. Resolution #14-052814-6 Supporting the Leasing of Residential Housing for Less than 30 Consecutive Days “Short Term “Leasing”.**

*Danyale Blackmore moved to approve Resolution #14-052814-6 Supporting the Leasing of Residential Housing for Less than 30 Consecutive Days “Short Term “Leasing”. Jay Lee seconded the motion.*

The Council discussed whether or not comments could be taken after a motion and second had been given. Cindy Escude thought that once a motion had been made the comments were all done. Sean Amoldt stated that comments could be made up until it was time to vote. Council Member Bill Adams stated that it had been moved and seconded, so a vote should be taken, then comments, and another vote if needed. Mayor Bruce Densley called the question and the Town Council had to vote.

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

*Vote on Motion: Bill Adams-No, Danyale Blackmore-Aye, Jean Krause-No, Jay Lee-Aye, and Mayor Bruce Densley-No via speaker phone. The motion failed.*

Mayor Bruce Densley stated that the Resolution had been voted down, so no discussion was needed. He then added that Jean Krause had been dealing with the issue, so she might want to make a few comments. She reported that the Town Attorney had been asked to review the Resolution and submit his analysis of the ramifications if such a resolution were to pass. Jay Lee and Danyale Blackmore reported that they had not seen the review.

Council Member Bill Adams stated he would like to explain his vote, although he would have liked to have commented before the vote. He stated that he was in favor of short term leasing, however the resolution as currently written was way too vague and would have blown up VULU. He felt that the Town would not have had a zoning ordinance because it gave the ability for anybody, to do anything, in any zone. He stated that it provided that people could do anything they wanted as long as Planning and Zoning provided a standard for it. He suggested that the Council ask Planning and Zoning to provide an ordinance that defined what short term leasing should be and then have public hearings and implement the ordinance into VULU. He stated that was the proper way to do things.

Council Members Jay Lee and Danyale Blackmore stated that was the intent of the Resolution.

Council Member Bill Adams stated that the Resolution asked Planning and Zoning to do it, but in the mean time blows up all the zoning the Town has. Mayor Pro Tem Jean Krause agreed that was how the Resolution came across to her also. Bruce Densley asked someone to explain the difference between a short term lease and a motel. He stated that the Resolution allowed anyone to turn their home into a motel. He asked what the real difference was between a short term rental and a motel rental, unless it was in terms of numbers. He also did not know where the defining line should be. Council Member Jay Lee stated that he thought Council Member Bill Adams was saying that was what the Planning and Zoning needed to define. Mayor Pro Tem Jean Krause stated that in number one of the Resolution it

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

**Work Session at 6:30 pm**

**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

said a definition of short term leasing shall be established by the Town. Council Member Danyale Blackmore stated that she thought Planning and Zoning should define and separate it from a hotel. Mayor Pro Tem Jean Krause stated that the Ordinance passed in July had that in it. Council Member Danyale Blackmore stated that July's Ordinance should be added to this Resolution. Mayor Pro Tem Jean Krause stated that the Resolution was saying that the Town would allow short term leasing and meanwhile allowing them to continue. She stated that there would be no end to the renting if the Planning and Zoning took months or years to complete the ordinance. Council Member Jay Lee stated that resolutions were only good for six months.

Monte Lutz stated that the Town had had a lawsuit going on in excess of 12 months. Mayor Bruce Densley stated that the Town had not had any lawsuit filed. Monte Lutz replied that he was paying lawyers, so it was considered filed. Council Member Bill Adams stated that a lawsuit had not been filed with the Town office. Mayor Bruce Densley added that when, and if, the papers were filed then the Town would deal with it then. Monte Lutz noted that all the proper paperwork had been submitted to the Town to appeal to the Board of Adjustment. Monica Bowcutt, Town Clerk, affirmed that the paperwork had come in that day.

#### **COUNCIL COMMENTS:**

– Bill Adams stated that he thought the Council should immediately task Planning and Zoning with putting an ordinance together to address the issue of short term residential leases. He stated that the Planning and Zoning should look at whether the Town should have an area zoned for short term residential leases or whether it should be applied to all zones and a conditional use be used. He said that public hearings should be had along the way. If there was a majority of people who did not want the use, then it should be majority rules. Mayor Pro Tem, Jean Krause, asked if it was appropriate for that to go on until the lawsuit had been resolved. Council Member Bill Adams stated that they could go on simultaneously. Council Member Jay Lee stated that they were separate issues and the lawsuit was about grandfathered in leases. Council Member Danyale Blackmore stated that the point was that the

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

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Town already had VRBO's here and there was nothing specific in the ordinances for this issue, so standards needed to be set. She continued that these set standards would protect the Town and the citizens. It was then mentioned that according to Bruce Densley's survey, a majority of the citizens wanted the use. Mayor Pro Tem Jean Krause stated that this was something Planning and Zoning would look at because they were redoing the General Plan. She explained that they were preparing a big survey, in which she was sure the issue would be addressed somewhere. Council Member Bill Adams stated he wanted to get it done quickly and not sit on it for 6 months. Mayor Bruce Densley asked if it was such a good thing, why were all the other towns banning them. He then suggested that Virgin should make it a ballot issue, which would give time for everyone to see the long term ramifications and the pro's and con's. Council Member Danyale Blackmore stated that not all towns had disapproved it. She gave the example of Washington City, who was still looking at their situation and Hurricane who had a zone to allow VRBO's. Council Member Blackmore stated that other Towns had set standards. Council Member Bill Adams stated that Rockville was half bed and breakfasts and if the people in Virgin wanted to have bed and breakfasts, then they should have them. If the people don't want bed and breakfast, then the Town would not force people to have them. Mayor Densley amended his comment stating that he was in favor of the use, but it was the location he was concerned about. He did not want them to be located in the middle of the residential areas.

– Jay Lee stated that based on the police report on May 23, 24, and 25, Springdale Police were in Town doing extra patrols because a citizen had asked them to do that. Council Member Danyale Blackmore stated that she was approached by a citizen that lived close to the trailer park who was concerned about large amounts of traffic that came everyday at 5:00 pm. and stayed for only 15 minutes. The citizen had asked if the police department could spend some time over there to see if they could find out if something was going on. Council Member Jay Lee stated that he would like to see an official report from the Police Department so the Council could see what the officers were doing in Town each day. Mayor Bruce Densley stated that he had a meeting with the Police Department and he would bring that up.

## FINAL MINUTES

### **VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

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**Regular Meeting at 7:00 pm**

**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

Mayor Densley's call was lost.

#### **OPEN FORUM**

– Cindy Escude stated that she thought people's names should not advertized until they had been charged, not just if there had been a concerned call. She felt that she had the right to call the police if she was concerned about something that was going on near her home. The Council agreed. Town Clerk, Monica Bowcutt, stated that the event was listed differently on the report, so it was noticed more. Cindy Escude stated that well over a year ago the whole short term leasing thing was started by Planning and Zoning putting out an ordinance proposal, then the Town Council had several meetings, including a public hearing, finally Town Council voted on it. At that time, private citizens disagreed and took their own action to the courts. She wondered, if everyone had put time and effort into the subject for the last year and a half then came to a conclusion, why was it being reviewed until outcome of the lawsuit was known. Secondly, if the Town had spent all the time and energy to put the subject through the VULU process, why was the Town starting the whole thing again.

#### **C. ADJOURN PUBLIC MEETING:**

##### **14. Approve motion to adjourn public meeting.**

*Jay Lee made a motion to adjourn the public meeting. Bill Adams seconded the motion. Vote on Motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, and Jay Lee-Aye. The motion passed unanimously.*

The Meeting adjourned at 7:55 pm.

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 28, 2014**

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**Virgin Town Office, 114 So. Mill Street, Virgin, Utah**

\_\_\_\_\_  
Monica Bowcutt  
Town Clerk

Approved: \_\_\_\_\_